

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5641 OF 2005

1. Mrs.Rlosy Anthony D'Souza.
2. Mrs.Severine Barretto.
3. Simpson Anthony D'Souza. ... Applicants
Versus.
State of Maharashtra. ... Respondent.

Shri M.K.Kocharekar for the Applicants.

Ms.S.D.Shinde, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 13th Sept., 2005.

P.C.:

1. Heard the learned Advocate for the Applicants and
the learned A.P.P. for the State.

2. The learned Advocate for the Applicant alongwith an affidavit has filed a copy of memorandum of understanding which is arrived at between the Applicants and the original Complainant. A copy of the bail application made by the husband of the Complainant i.e. son of the Applicant No.1 herein and the order passed thereon is also annexed to the said affidavit. The order dated 1st August 2005 discloses that in view of the settlement, the Complainant who was personally present before the learned Magistrate recorded no objection for releasing the said accused on bail and accordingly the said accused has been enlarged on bail.

The learned Advocate for the Applicants submitted that in view of this position the Applicants are entitled to the relief. The learned A.P.P. has opposed the prayer made by the Applicants.

3. From the affidavit of the Applicant No.2 which is tendered on record and from the copy of the order dated 1st August 2005 annexed to the said affidavit, it appears that there appears to be some settlement based on which the Accused No.1 i.e. husband of the Complainant has been ordered to be enlarged on bail. It is true that the settlement by itself is no ground to grant anticipatory bail, nevertheless, the said fact will have to be considered while deciding the prayer made by the Applicants on merits. It appears that the main allegations are made by the Complainant against the Accused No.1, who is already ordered to be enlarged on bail. The allegations which are made against the Applicants appear to be a very general in nature. Considering the material on record, this is not a case where the custodial interrogation of the Applicant is required. Hence the Applicants are granted anticipatory bail and following order is passed:

- (i) In the event of the arrest of the Applicant in connection with C.R.No.404 of 2005 registered by the Vakola Police Station,

Mumbai, the Applicants shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.5,000/- each with one surety in the like amount.

(ii) The Bail is granted subject to condition that the Applicants will attend the concerned Police Station as and when called upon to do so for the purpose of investigation till filing of the charge sheet.

(iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/ Investigating Agency. The Applicants shall not tamper with the prosecution evidence.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

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(v) This order will enure to the benefit of the Applicants only till charge sheet is filed. Thereafter they will be free to apply to the appropriate Court for appropriate relief.

(vi) Application is disposed of in above terms.

(vii) The parties to act upon an authenticated copy of this order.

Judge.